

Filed by: Merits Panel
Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Paper 125 16
Filed 26 September 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JOSEPH SCOTT STAM, JON HAROLD BECHTEL
and JOHN KING ROBERTS
Junior Party
(Patent 5,837,994),

v.

KENNETH SCHOFIELD, MARK L. LARSON
and KEITH J. VADAS
Senior Party
(Application 09/441,341).

Patent Interference No. 105,325 (SCM)

Before: MARTIN, LEE, and MEDLEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

Judgment - Bd.R. 127(b) and Bd.R. 201

1 As a result of the decision on motions it was determined that Schofield lacks standing
2 (Bd.R. 201) with respect to Count 3 (Paper 119, pages 15-23). It was also determined that
3 Stam's claims 36-40 corresponding to Count 1 are unpatentable under 35 U.S.C. § 305 (Paper
4 119, pages 54-57). Stam's priority statement fails to allege a date that is earlier than Schofield's
5 accorded benefit date with respect to Count 1 and Count 2.

1 Accordingly, it is

2 **ORDERED** that judgment on priority as to Count 1 (Paper 1 at 4) in the interference is
3 awarded against junior party JOSEPH SCOTT STAM, JON HAROLD BECHTEL
4 and JOHN KING ROBERTS¹.

5 **FURTHER ORDERED** that judgment as to Stam claims 36-40 is awarded against
6 junior party JOSEPH SCOTT STAM, JON HAROLD BECHTEL and JOHN KING ROBERTS
7 **FURTHER ORDERED** that junior party JOSEPH SCOTT STAM, JON HAROLD
8 BECHTEL and JOHN KING ROBERTS is not entitled to a patent containing claims 36-40
9 (corresponding to Count 1) of U.S. patent 5,837,994.

10 **FURTHER ORDERED** that judgment on priority as to Count 2 (Paper 1 at 5) in the
11 interference is awarded against junior party JOSEPH SCOTT STAM, JON HAROLD
12 BECHTEL and JOHN KING ROBERTS.

13 **FURTHER ORDERED** that junior party JOSEPH SCOTT STAM, JON HAROLD
14 BECHTEL and JOHN KING ROBERTS is not entitled to a patent containing claims 44-49
15 (corresponding to Count 2) of patent 5,837,994.

16 **FURTHER ORDERED** that judgment as to Count 3 (Paper 1 at 5) in the interference is
17 awarded against senior party KENNETH SCHOFIELD, MARK L. LARSON and KEITH J.
18 VADAS.

¹ The examiner of application 11/301,472 is directed to In re Deckler, 977 F.2d 1449, 24 USPQ2d 1448 (Fed. Cir. 1992) regarding the patentability of claims presented that are identical to claims 36-40 of the Stam 5,837,994 patent.

1 **FURTHER ORDERED** that senior party KENNETH SCHOFIELD, MARK L.

2 LARSON and KEITH J. VADAS is not entitled to a patent containing claim 99 (corresponding
3 to Count 3) of application 09/441,341.

4 **FURTHER ORDERED** that a copy of this paper shall be made of record in the files of
5 application 09/441,341 and U.S. Patent 5,837,994.

6 **FURTHER ORDERED** that Stam shall, within five days of the date of this order, file a
7 copy of this paper in application 11/301,472.

8 **FURTHER ORDERED** that if there is a settlement agreement, attention is directed to 35
9 U.S.C. § 135(c) and Bd.R. 205.

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11 /John C. Martin/)
12 JOHN C. MARTIN)
13 Administrative Patent Judge)
14)
15)
16 /Jameson Lee/)BOARD OF PATENT
17 JAMESON LEE) APPEALS AND
18 Administrative Patent Judge) INTERFERENCES
19)
20)
21 /Sally C. Medley/)
22 SALLY C. MEDLEY)
23 Administrative Patent Judge)

24

25

1 cc (via e-mail):

2 malcolm.mcgowan@bingham.com

3 bill.hughet@bingham.com

4 linn@vglb.com

5 flory@vglb.com

6

7

Despertt, Sonja

From: Despertt, Sonja on behalf of Interference Trial Section
Sent: Tuesday, September 26, 2006 4:24 PM
To: 'malcolm.mcgowan@bingham.com'; 'bill.hughet@bingham.com'; 'linn@vglb.com'; 'flory@vglb.com'
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